

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL WAYNE STEWART, a/k/a
MICHAEL WEST,

Defendant-Appellant.

UNPUBLISHED

April 20, 2006

No. 260164

Wayne Circuit Court

LC No. 04-006615-01

Before: Murphy, P.J., and O’Connell and Murray, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial convictions for felonious assault, MCL 750.82, felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b.¹ We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This case arises from a shooting that occurred during defendant’s altercation with complainant Calvin Griffith. Griffith struck defendant’s acquaintance, Kathleen Turner, after she allegedly insulted him. Turner and defendant left in defendant’s van, but later returned. Griffith was shot in the second altercation. According to Griffith, when he walked toward defendant, defendant pulled a small handgun from his pocket and fired it twice. Griffith ran at defendant, and defendant fired again. Griffith was struck in the chest. Griffith and defendant fought, and others persons who were present nearby joined in. Griffith struck defendant’s van with a brick, and then struck defendant in the hand and face. Another person grabbed defendant’s gun. Griffith collapsed as the others continued to attack defendant and Turner.

Defendant denied that he possessed the firearm or shot Griffith. He maintained that he returned to confront Griffith because he wanted to ask him why he had struck Turner. Griffith approached him and the two began to fight. Defendant had subdued Griffith when someone hit him in the head with a brick. Another person approached Griffith with a handgun and asked whether he wanted to shoot defendant. Defendant grabbed the individual’s hand and the gun

¹ Defendant was initially charged with assault with intent to commit murder, MCL 750.83, but the trial court acquitted him of that charge.

discharged. The other men continued to attack him but left when they spotted police officers. Defendant and Turner returned to the van. Griffith struck defendant's hand with the brick before the police arrived.

Other witnesses included Turner and a number of police officers who arrived on the scene after the shooting. One officer testified that defendant stated that he had shot Griffith. Turner testified that Griffith began the initial altercation by insulting her, and that she did not insult Griffith. Griffith and others assaulted her when she and defendant returned to confront Griffith. She testified that defendant did not own a gun. Turner did not see the shooting because she was being attacked at the time. She heard one shot.

The parties stipulated that a gunpowder residue test performed on defendant's right hand and face was negative. The test was not performed on defendant's left hand, which had been bandaged.

In its findings of fact, the trial court noted that the witnesses provided alternate accounts of the shooting. It found that the situation "got out of hand" and resulted in injuries to both defendant and Griffith. The trial court found that the evidence supported the conclusion that defendant assaulted Griffith with a dangerous weapon, the handgun, and it convicted defendant of felony-firearm and felon in possession. However, the trial court determined that the charge of assault with intent to murder was not supported by the evidence, but it did convict defendant of felonious assault.

Defendant argues that the trial court's findings of fact were insufficient because they did not specifically address the question of whether he was the person who actually fired the gun. Findings of fact are sufficient if it appears from the record that the trial court "was aware of the issues in the case and correctly applied the law." *People v Legg*, 197 Mich App 131, 134; 494 NW2d 797 (1992). A trial court is not required to make specific factual findings regarding each element of a crime. *Id.* Moreover, a trial court's failure to adequately find the facts does not require remand where it is manifest that the court was aware of the factual issue, that it resolved the issue, and that further explanation would not facilitate appellate review. *Id.* at 134-135, citing *People v Jackson*, 390 Mich 621, 627 n 3; 212 NW2d 918 (1973).

Here, the trial court was aware of defendant's defense that he did not possess the firearm used in the shooting and did not intend to shoot Griffith. The trial court chose to disbelieve and disregard it. The trial court's factual findings are somewhat perfunctory; however, the factual issues raised at trial were straightforward. Defendant and Griffith presented alternate versions of the shooting, and the trial court found Griffith's version more credible. A remand for further factual findings would not be useful for appellate review. The trial court's findings were sufficient under MCR 6.403.

Affirmed.

/s/ William B. Murphy
/s/ Peter D. O'Connell
/s/ Christopher M. Murray